

Remarks

Claims 31-33, 37, 39, 44-47 are pending.

Double Patenting

Claims 39, 44, 46, and 47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of U.S. Patent No. 7, 288, 254. Applicants respectfully traverse the rejection. Applicants respectfully point out to the examiner that the present application and U.S. Patent No. 7, 288, 254, both claim priority through U.S. Application No. 08/739, 703, filed on Oct. 29, 1996, now abandoned, which claims benefit of U.S. Provisional Application No. 60/008,104, filed Oct. 30, 1995. Accordingly, both the present application and the '254 patent have the same effective filing date, the rejection is moot. Moreover, as the filing date for U.S. Patent No. 7, 288, 254 was two years after the filing date of the present application, a two-way obviousness analysis would apply. Applicants respectfully point out that under such an analysis, the present claims 39, 44, 46, and 47 would not make obvious claims 1 and 6 of U.S. Patent No. 7, 288, 254 as there is no disclosure of pancreatic islet cells. Accordingly, not all the limitations of the patented claims are disclosed in the claims of the present application. Applicants believe this rejection to be overcome and respectfully request its withdrawal.

Claims 31-33, 37 and 45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,632,928. Applicants submit with this Response a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) relative to U.S. Patent No. 6,632,928. It is believed that this obviates the present rejection pursuant to M.P.E.P. § 804.02.

Claims 31-33, 37 and 45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32, 45-78, and 116-119 of U.S. Application No. 10/296,085. Applicants acknowledge the rejection and will formally respond to the provisional double patenting rejection in the appropriate application once

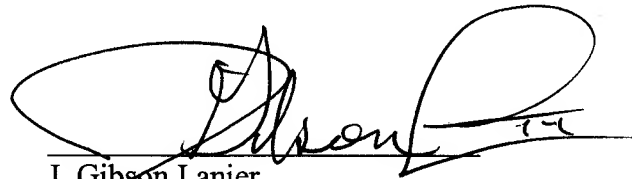
ATTORNEY DOCKET NO. 14028.0290US
Application No. 09/389,565

claims are found to be allowable necessitating the removal of the provisional status of the rejection.

A Credit Card Payment authorizing payment in the amount of \$1180.00 which includes \$10500.00, which is the large entity fee under 37 C.F.R. § 1.17(a)(1) for a three (3) month Extension of Time, and \$130.00, which is the statutory fee under 37 C.F.R. § 1.20(d) of \$130.00 each for two terminal disclaimers, two terminal disclaimers, and a Request for Extension of Time are being submitted electronically. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

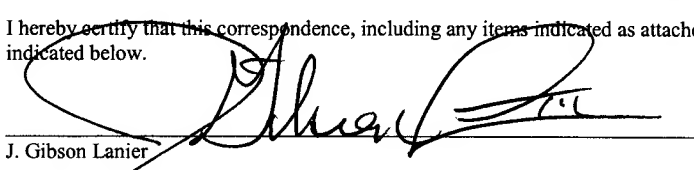
Respectfully submitted,

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